

1 AMANDA H. SAXTON  
 Chief of Enforcement  
 2 JESSE MAINARDI  
 Commission Counsel  
 3 FAIR POLITICAL PRACTICES COMMISSION  
 428 J Street, Suite 620  
 4 Sacramento, CA 95814  
 Telephone: (916) 322-5660

5 Attorneys for Complainant  
 6

7  
 8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
 9 STATE OF CALIFORNIA

10 In the Matter of

) FPPC No. 07/441

11 CAROLE MIGDEN, CAROLE MIGDEN  
 LEADERSHIP COMMITTEE, FRIENDS OF  
 12 CAROLE MIGDEN, RE-ELECT SENATOR  
 CAROLE MIGDEN, ROGER SANDERS,  
 13 AND ERIC POTASHNER,  
 14

)  
 ) STIPULATION, DECISION and  
 ) ORDER  
 )  
 )  
 )

15 Respondents.

16 1. Complainant Michael B. Salerno, Executive Director of the Fair Political Practices  
 17 Commission ("Commission"), and Respondents Carole Migden, Carole Migden Leadership Committee,  
 18 Friends of Carole Migden, Re-Elect Senator Carole Migden, Roger Sanders, and Eric Potashner, hereby  
 19 agree that this stipulation will be submitted for consideration by the Commission at its next regularly  
 20 scheduled meeting. Respondents further agree to the issuance of the decision and order, which is  
 21 attached hereto.

22 2. With the exception of the issues relating to the expenditures and receipts identified in  
 23 Attachment B to the February 21, 2008 letter from Amanda Saxton, Chief of Enforcement to attorney  
 24 James Harrison, the parties agree to enter into this stipulation to reach a final disposition of all factual  
 25 and legal issues currently known to the Enforcement Division of the Commission, or that should have  
 26 been known to the Enforcement Division by the reporting period ending June 30, 2007, without the  
 27 necessity of holding an administrative hearing to determine the liability of Respondents. Attachment B  
 28 to the February 21, 2008 letter is attached hereto as Exhibit 1 and incorporated by reference into this

1 Stipulation, Decision, and Order. This stipulation in no way abrogates or impairs the Commission's  
2 ability to avail itself of any and all remedies relating to the expenditures and receipts identified in  
3 Exhibit 1.

4 3. Respondents understand, and hereby knowingly and voluntarily waive, any and all  
5 procedural rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and in  
6 Sections 18361.1 through 18361.9 of Title 2 of the California Code of Regulations with respect to the  
7 matters covered by this stipulation. These include, but are not limited to, the right to personally appear  
8 at any administrative hearing held in this matter, to be represented by an attorney at Respondents' own  
9 expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to  
10 testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing  
11 officer, and to have the matter judicially reviewed.

12 4. Exhibit 2 is attached hereto and incorporated by reference as though fully set forth herein.  
13 Exhibit 2 is a true and accurate summary of the facts in this matter. Respondents agree to the  
14 Commission imposing upon them a total administrative penalty in the amount of Three Hundred Fifty  
15 Thousand Dollars (\$350,000), to be paid as set forth in paragraphs 5 and 6.

16 5.

17 A. Respondents Carole Migden, Carole Migden Leadership Committee, Roger  
18 Sanders, and Eric Potashner committed six violations the Political Reform Act, as  
19 described in Exhibit 2, and agree to the Commission imposing upon them an  
20 administrative penalty for these violations in the amount of Twenty-Six Thousand  
21 Dollars (\$26,000);

22 B. Carole Migden, Friends of Carole Migden, Roger Sanders, and Eric Potashner  
23 committed 22 violations the Political Reform Act, as described in Exhibit 2, and  
24 agree to the Commission imposing upon them an administrative penalty for these  
25 violations in the amount of One Hundred Ten Thousand Dollars (\$110,000);

26 C. Carole Migden, Re-Elect Senator Carole Migden, Roger Sanders, and Eric  
27 Potashner committed 60 violations the Political Reform Act, as described in  
28 Exhibit 2. and agree to the Commission imposing upon them an administrative

1 penalty for these violations in the amount of Two Hundred Nine Thousand  
2 Dollars (\$209,000); and

3 D. Carole Migden and Re-Elect Senator Carole Migden committed 1 violation of  
4 the Political Reform Act, as described in Exhibit 2, and agree to the Commission  
5 imposing upon them an administrative penalty for this violation in the amount  
6 of Five Thousand Dollars (\$5,000).

7 6. A cashier's check or money order from Respondents in the amount of One Hundred  
8 Thousand Dollars (\$100,000), made payable to the "General Fund of the State of California," is  
9 submitted with this stipulation as partial payment of the total administrative penalty of Three Hundred  
10 Fifty Thousand Dollars (\$350,000), and shall be held by the State of California until the Commission  
11 issues its decision and order regarding this matter. This One Hundred Thousand Dollars (\$100,000)  
12 payment shall be applied as follows: (1) to pay in full the penalty specified in paragraph 5.A, (2) to pay  
13 Thirty-Four Thousand Five Hundred Dollars (\$34,500) of the penalty specified in paragraph 5.B., (3) to  
14 pay Thirty-Four Thousand Five Hundred Dollars (\$34,500) of the penalty specified in paragraph 5.C.,  
15 and (4) to pay in full the penalty specified in paragraph 5.D. Carole Migden, Roger Sanders, Eric  
16 Potashner, Friends of Carole Migden, and Re-Elect Senator Carole Migden each submit with this  
17 stipulation a Confession of Judgment Statement and Attorney's Declaration In Support of Statement  
18 Confessing Judgment, each in the sum of her, his, and its respective liability for the balance owed, and  
19 these documents are incorporated by reference.

20 7. Upon the approval of this stipulation by the Commission, the Two Hundred Fifty  
21 Thousand Dollars (\$250,000) balance shall be paid within one year of the date of the approval, or upon  
22 final disposition of any litigation among the parties involving Government Code section 89519 as more  
23 particularly identified in Exhibit 1, whichever is earlier.

24 8. The parties agree that in the event the Commission declines to accept this Stipulation,  
25 Decision, and Order:

26 A. The stipulation and corresponding confessions of judgment and attorney's  
27 declaration shall be null and void;  
28

- 1 B. For the purpose of any subsequent prosecution of this matter, any admissions  
2 contained in this stipulation shall be considered in furtherance of settlement  
3 discussions pursuant to Evidence Code sections 1152 and 1154;  
4 C. Within fifteen (15) business days after the Commission meeting at which the  
5 acceptance of the stipulation is declined, all payments tendered by Respondents in  
6 connection with this stipulation shall be reimbursed to Respondents in a check  
7 made payable to Carole Migden; and  
8 D. The Commission's enforcement authority and ability to pursue available remedies  
9 for the identified violations will in no way be abrogated or impaired. Neither any  
10 member of the Commission, nor the Executive Director, shall be disqualified  
11 because of prior consideration of this stipulation in the event the Commission  
12 declines to accept the stipulation and a full evidentiary hearing before the  
13 Commission becomes necessary.  
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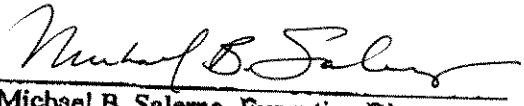
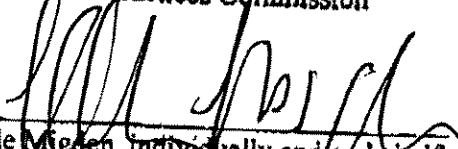
20 [Signature page to follow.]  
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FPPC ENFORCEMENT

11:45:43 a.m. 03-17-2008

7/7

1 Dated: 3-18-08  
Michael B. Salerno, Executive Director  
Fair Political Practices Commission2  
3  
4 Dated: 3-17-08  
Carole Migden, individually and on behalf of Respondents  
Carole Migden Leadership Committee, Friends of Carole  
Migden, Re-Elect Senator Carole Migden5  
6  
7  
8 Dated: \_\_\_\_\_9  
10 Roger Sanders, individually and on behalf of Respondents  
Carole Migden Leadership Committee, Friends of Carole  
Migden, Re-Elect Senator Carole Migden

11 Dated: \_\_\_\_\_

12 Eric Potashner, individually  
13  
14  
1516 **DECISION AND ORDER**17 The foregoing stipulation of the parties "In the Matter of Carole Migden, Carole Migden  
18 Leadership Committee, Friends of Carole Migden, Re-Elect Senator Carole Migden, Roger Sanders, and  
19 Eric Potashner, FPPC No. 07/441," including all attached exhibits, is hereby accepted as the final  
20 decision and order of the Fair Political Practices Commission, effective upon execution below by the  
21 Chairman.22 IT IS SO ORDERED.  
23  
24

25 Dated: \_\_\_\_\_

26 Ross Johnson, Chairman  
27 Fair Political Practices Commission  
28

3221932

FPPC ENFORCEMENT

11:45:43 a.m. 03-17-2008

7/7

1 Dated: \_\_\_\_\_

2 \_\_\_\_\_  
3 Michael B. Salerno, Executive Director  
4 Fair Political Practices Commission

5 Dated: \_\_\_\_\_

6 \_\_\_\_\_  
7 Carole Migden, individually and on behalf of Respondents  
8 Carole Migden Leadership Committee, Friends of Carole  
9 Migden, Re-Elect Senator Carole Migden

10 Dated: 3/12/08

11 \_\_\_\_\_  
12 Roger Sanders, individually and on behalf of Respondents  
13 Carole Migden Leadership Committee, Friends of Carole  
14 Migden, Re-Elect Senator Carole Migden

15 Dated: \_\_\_\_\_

16 \_\_\_\_\_  
17 Eric Potashner, individually

18 **DECISION AND ORDER**

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22 decision and order of the Fair Political Practices Commission, effective upon execution below by the  
23 Chairman.

24 **IT IS SO ORDERED.**

25 Dated: \_\_\_\_\_

26 \_\_\_\_\_  
27 Ross Johnson, Chairman  
28 Fair Political Practices Commission

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RENCHO, JOHANSEN&amp;PURCELL

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FPPC ENFORCEMENT

11:45:43 a.m. 03-17-2008

7/7.

1 Dated: \_\_\_\_\_

2 Michael B. Salerno, Executive Director  
3 Fair Political Practices Commission

4 Dated: \_\_\_\_\_

5 Carole Migden, individually and on behalf of Respondents  
6 Carole Migden Leadership Committee, Friends of Carole  
7 Migden, Re-Elect Senator Carole Migden

8 Dated: \_\_\_\_\_

9 Roger Sanders, individually and on behalf of Respondents  
10 Carole Migden Leadership Committee, Friends of Carole  
11 Migden, Re-Elect Senator Carole Migden

12 Dated: 3/17/08

13 Eric Potashner, Individually

14  
15  
16 **DECISION AND ORDER**

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19 Eric Potashner, FPPC No. 07/441," including all attached exhibits, is hereby accepted as the final  
20 decision and order of the Fair Political Practices Commission, effective upon execution below by the  
21 Chairman.

22 IT IS SO ORDERED.

23  
24  
25 Dated: \_\_\_\_\_

26 Ross Johnson, Chairman  
27 Fair Political Practices Commission